

**Franchise Tax Board****SUMMARY ANALYSIS OF AMENDED BILL**

Author: Campbell Analyst: LuAnna Hass Bill Number: AB 2480  
Related Bills: See Prior Analysis Telephone: 845-7478 Amended Date: April 15, 2004  
Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Mandatory e-file/Repeal And Add Penalty Provision

\_\_\_\_ DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended \_\_\_\_.

\_\_\_\_ AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

\_\_\_\_ AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended \_\_\_\_.

\_\_\_\_ FURTHER AMENDMENTS NECESSARY.

\_\_\_\_ DEPARTMENT POSITION CHANGED TO \_\_\_\_.

\_\_\_\_ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED/AMENDED \_\_\_\_ . STILL APPLIES.

☒ OTHER - See comments below.

**SUMMARY**

This bill would repeal a penalty provision for tax practitioners that are required to e-file individual income tax returns and add an identical penalty provision to be operative at a later date.

**SUMMARY OF AMENDMENTS**

The April 15, 2004, amendments remove language that would have repealed a provision relating to certain tax practitioners having to e-file individual income tax returns. In addition, the amendments would specify that the current penalty provision for income tax practitioners that are mandated to e-file would be repealed as of January 1, 2004. Further, these amendments would add an identical penalty provision that would be operative for returns required to be filed on or after January 1, 2005.

As a result of the amendments, the department has updated the implementation consideration statement, fiscal impact, and policy considerations, as provided below. The remainder of the department's analysis of the bill as introduced February 19, 2004, still applies.

**POSITION**

Pending.

**ANALYSIS****IMPLEMENTATION CONSIDERATIONS**

Implementing this bill would not significantly impact the department's programs and operations.

Board Position:

\_\_\_\_ S      \_\_\_\_ NA      \_\_\_\_ NP  
\_\_\_\_ SA      \_\_\_\_ O      \_\_\_\_ NAR  
\_\_\_\_ N      \_\_\_\_ OUA      ☒ PENDING

Legislative Director

Brian Putler

Date

April 21, 2004

## **FISCAL IMPACT**

This bill would not significantly impact the department's costs.

## **ECONOMIC IMPACT**

This bill would not impact state income tax revenue.

## **ARGUMENTS/POLICY CONCERNS**

Since the enactment of AB 1756 (Assembly Budget Committee, Stats. 2003, Ch. 228) in August 2003, approximately 11,400 tax professionals have enrolled in FTB's e-file program. However, the department is unable to distinguish those tax professionals that enrolled due to the mandatory e-file requirement. It is anticipated that some of the 11,400 tax professionals are not mandated to e-file and do so because of the considerable benefits from e-filing returns. In addition, some of the tax professionals that are required to e-file under the new law may have already been e-filing some tax returns prior to the mandate.

Current law gives FTB authority to assess a \$50 penalty for each tax return a tax preparer is required to e-file but fails to do so. However, the law exempts a tax preparer from the penalty if the taxpayer elects not to have his or her tax return e-filed. Consequently, receipt of a paper tax return arguably indicates the election of the taxpayer not to e-file, thus rendering the penalty ineffective.

## **LEGISLATIVE STAFF CONTACT**

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